

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA**

| | | |
|-------------------------------|---|---------------------------|
| THE CHEROKEE NATION, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| MCKESSON CORPORATION; |) | Case No. 18-cv-56-RAW-SPS |
| CARDINAL HEALTH, INC.; |) | |
| CARDINAL HEALTH 110, LLC; |) | |
| AMERISOURCEBERGEN DRUG CORP.; |) | |
| CVS PHARMACY, INC.; |) | |
| OKLAHOMA CVS PHARMACY, LLC; |) | |
| WALGREEN CO.; and |) | |
| WAL-MART STORES, INC., |) | |
| |) | |
| Defendants. |) | |
| |) | |

JOINT STIPULATION AND MOTION TO AMEND CASE SCHEDULE

Pursuant to Section 1.A of the Amended Case Management Order (Doc. No. 204), Plaintiff and Defendants have stipulated to a four-month extension of the fact discovery deadline in the above-captioned matter, from March 12, 2021 to July 12, 2021. To assist the parties in effectuating this change, Plaintiff and Defendants also jointly move for corresponding changes to the deadlines for summary judgment and *Daubert* motions reflected in the Amended Case Management Order. A Proposed Order Granting Motion to Amend Case Schedule accompanies this submission. In support of the foregoing, the parties state as follows:

1. The parties seek this relief because they have jointly agreed that more time is needed to complete fact discovery. The Court’s Amended Case Management Order (“CMO”) permits the parties to stipulate to an extension of the deadline for completion of fact discovery. *See* CMO, Oct. 13, 2020, Doc. No. 204, at 1 (setting fact discovery deadline of March 12, 2021 and stating that “[t]his fact discovery deadline may be altered by stipulation of the parties or by a

showing of good cause”). In accord with the terms of the CMO, the parties have agreed to move the deadline for completing fact discovery from March 12, 2021 to July 12, 2021. This reflects the parties’ recognition that significant work remains to be done to complete discovery. It also takes into account that the parties recently filed motions to compel regarding the temporal, geographic, and medication scopes at issue in the litigation, all of which will impact the parties’ production of responsive information.

2. Many of the other deadlines established in the CMO are scheduled to occur a certain number of days before or after the close of fact discovery or other deadlines. For instance, the CMO provides that Plaintiff’s expert reports will be due 30 days after the close of fact discovery. *See id.* at 2. For this reason, many of the additional deadlines in the CMO will not require adjustment by Court order, as they will adjust automatically based on the parties’ stipulated extension of the fact discovery deadline.

3. However, because the fixed dates for summary judgment and *Daubert* motions are specified in the CMO, those dates will require adjustment by the Court. The parties thus jointly move to change the deadlines related to summary judgment and *Daubert* motions so that they will align with the revised discovery schedule.

4. If the Court grants the parties’ joint motion, the revised case schedule for the remainder of discovery and dispositive motions will be as follows:

| <i>Event</i> | <i>Prior Deadline</i> | <i>Revised Deadline</i> |
|--|---|---|
| <i>Fact Discovery and Related</i> | | |
| Substantial completion of document productions | 65 days before close of fact discovery (January 6, 2021) | 65 days before close of fact discovery (May 10, 2021) |
| Joinder of additional parties | 60 days before close of fact discovery (January 11, 2021) | 60 days before close of fact discovery (May 13, 2021) |
| Close of fact discovery | March 12, 2021 | July 12, 2021 |
| <i>Expert Discovery</i> | | |
| Service of Plaintiff’s expert reports | 30 days after close of fact discovery | 30 days after close of fact discovery |

| <i>Event</i> | <i>Prior Deadline</i> | <i>Revised Deadline</i> |
|---------------------------------------|---|---|
| Service of Defendants' expert reports | 40 days after service of Plaintiff's expert reports | 40 days after service of Plaintiff's expert reports |
| Completion of expert depositions | 30 days after deadline for Defendants' expert reports | 30 days after deadline for Defendants' expert reports |
| <i>Summary Judgment</i> | | |
| Summary judgment motions | August 19, 2021 | December 9, 2021 |
| Summary judgment response briefs | September 20, 2021 | January 10, 2022 |
| Summary judgment reply briefs | October 11, 2021 | January 31, 2022 |
| <i>Daubert</i> | | |
| <i>Daubert</i> motions | August 26, 2021 | December 16, 2021 |
| <i>Daubert</i> response briefs | September 27, 2021 | January 17, 2022 |
| <i>Daubert</i> reply briefs | October 18, 2021 | February 7, 2022 |

If the Court adopts these agreed-upon dates, the Court's dates for a pretrial conference and trial may be scheduled to occur after February 7, 2022.

For the foregoing reasons, Plaintiff and Defendants jointly move to amend the CMO by adjusting the dates for summary judgment motions and *Daubert* motions as outlined above, and to enter the accompanying Proposed Order Granting Motion to Amend Case Schedule.

* * *

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2021 January 6, 2021 January 6, 2021, I electronically transmitted the foregoing document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to all those registered within the ECF System.

/s/Stuart D. Campbell
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